

## ALLEN & OVERY

### BY ECF AND EMAIL

The Honorable Richard J. Sullivan  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 2104  
New York, New York 10007  
sullivanysdchambers@nysd.uscourts.gov

### Allen & Overy LLP

1221 Avenue of the Americas  
New York NY 10020

Tel 212 610 6300  
Fax 212 610 6399  
Direct line 212 756 1151  
andrew.rhys.davies@allenoverly.com

November 10, 2015

**Re: Gucci America, Inc., et al. v. Weixing Li, et al.,  
No. 10 Civ. 4974 (RJS)**

---

Dear Judge Sullivan:

Pursuant to Rule 1.D of the Court's Individual Practices, we write on behalf of non-party Bank of China ("BOC"), subject to and without waiver of BOC's jurisdictional objections, to request sufficient time to respond to the Order to Show Cause ("Order") of which we were notified via the Court's ECF system this morning. The motion papers were emailed to us on the afternoon of November 9, 2015. Under the Court's Order, BOC's response is due on November 16, 2015. No prior requests for extensions or adjournments have been sought. Gucci's counsel did not return our call seeking to discuss this request, and instead sent an email declining to agree to any extension.

In addition to seeking an order of contempt and the imposition of severe coercive sanctions, Plaintiffs (collectively, "Gucci") ask this Court to draw a range of "adverse inferences" against non-party BOC, and to compel non-party BOC "to make a cash payment of \$12 million to Plaintiffs as a compensatory sanction." Gucci's motion is supported by a 25-page memorandum of law and fourteen exhibits, many of which apparently have not been disclosed previously in this litigation.

Given the volume of Gucci's motion papers and the nature of the relief that it is seeking, *i.e.*, to make non-party BOC liable for the full amount of a default judgment that Gucci previously sought but that has never been entered, BOC should not be required to respond in any less time that it would be permitted if it had been served with a complaint, *i.e.*, 21 days. *See* Fed. R. Civ. P. 12(a). Indeed, if this had been filed as an ordinary motion, BOC would have had 17 days to respond. *See* Local Civ. R. 6.1; Fed. R. Civ. P. 6(d). Notably, 17 days is how long Gucci took to prepare and file its motion, after being notified on October 23, 2015 that BOC was not in a position to comply with the Court's Orders.

Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. It is authorized and regulated by the Solicitors Regulation Authority of England and Wales. Allen & Overy LLP is a multi-jurisdictional law firm with lawyers admitted to practise in a variety of jurisdictions. A list of the members of Allen & Overy LLP and their professional qualifications is open to inspection at its registered office, One Bishops Square, London, E1 6AD and at the above address. The term partner is used to refer to a member of Allen & Overy LLP or an employee or consultant with equivalent standing and qualifications.

Allen & Overy LLP or an affiliated undertaking has an office in each of: Abu Dhabi, Amsterdam, Antwerp, Bangkok, Barcelona, Beijing, Belfast, Bratislava, Brussels, Bucharest (associated office), Budapest, Casablanca, Doha, Dubai, Düsseldorf, Frankfurt, Hamburg, Hanoi, Ho Chi Minh City, Hong Kong, Istanbul, Jakarta (associated office), Johannesburg, London, Luxembourg, Madrid, Milan, Moscow, Munich, New York, Paris, Perth, Prague, Riyadh (associated office), Rome, São Paulo, Seoul, Shanghai, Singapore, Sydney, Tokyo, Warsaw, Washington, D.C. and Yangon.

Under the Order, Gucci has the same amount of time to reply to BOC's opposition (one week) as BOC has to oppose, resulting in a real disparity of opportunity to litigate the issues.

So that we have sufficient time to review Gucci's motion papers, to analyze the new evidence, to consult with our client (located in China), to prepare a response, and to provide our client sufficient time to review, comment upon, and approve that response, we respectfully request that the Court order that BOC's response be due on November 30, 2015, which is 21 days from November 9, 2015, and that the date for any written reply and hearing be extended accordingly.

Respectfully submitted,

/s/ Andrew Rhys Davies

**Andrew Rhys Davies**

Copy

All counsel of record (via ECF)